

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BRYAN W. CLARK, )  
Plaintiff, )  
vs. ) Case No.: 07-cv-06809  
400 N. ORLEANS, LLC; )  
DEUTSCH, LEVY & ENGEL, CHARTERED; )  
and LEO G. AUBEL )  
Defendants. )

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**DEFENDANTS DEUTSCH, LEVY & ENGEL, CHARTERED AND LEO G. AUBEL'S  
MOTION TO DISMISS**

Defendants Deutsch, Levy & Engel, Chartered and Leo G. Aubel, by and through their attorneys, for their Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), states as follows:

1. Plaintiffs bring Count III of the Complaint against Deutsch, Levy & Engel and Leo G. Aubel alleging legal malpractice as a result of their representation of Mr. Clark in his purchase of a condominium unit from 400 N. Orleans, LLC. Mr. Clark's action for legal malpractice is admittedly premature and should be dismissed.
2. The Complaint concedes that the legal malpractice count against Deutsch, Levy & Engel and Mr. Aubel "is predicated on the *possible determination* that Clark is not entitled to reformation of the Agreement, that Orleans did not breach the Agreement, that the Agreement is enforceable, and that Clark is liable to Orleans for breach of the Agreement." *See* Complaint at ¶56.
3. Plaintiff admittedly has yet to suffer damages as a result of the alleged legal malpractice.

4. Thus, this Court should find Count III premature because under Illinois no legal malpractice action can stand where the plaintiff has not yet suffered any damages and where it is unclear that the plaintiff ever will suffer damages.

5. In support of this Motion to Dismiss, Defendants Deutsch, Levy & Engel and Leo Aubel incorporate the arguments set forth in the attached Memorandum in Support of its Motion to Dismiss.

WHEREFORE, Defendants Deutsch, Levy & Engel and Leo Aubel respectfully request that this Court dismiss Count III of the Complaint pursuant to Rule 12(b)(6).

Respectfully submitted,

  
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*Kimberly E. Blair*  
Attorneys for Deutsch, Levy & Engel, Chartered  
and Leo G. Aubel

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**CERTIFICATE OF SERVICE**

I certify that on this 21st day of December, 2007, service of a true and complete copy of the above and forgoing pleading was made upon the following by depositing in the U.S. Mail, postage prepared:

Jay R. Hoffman  
303 W. Madison Street  
Suite 1800  
Chicago, IL 60606

Respectfully submitted,

By:

  
*Kimberly E. Blair*  
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Attorneys for Deutsch, Levy & Engel,  
Chartered and Leo G. Aubel

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